

Status on 2025-2026 Biennial Budget

Snohomish County Office of Public Defense

Legal Background & Authority

- OPD provides legal counsel and expert witness services to indigent individuals facing legal action that could impact a fundamental right (incarceration, loss of children, or finances).
- Authority
 - Constitutional
 - U.S. Constitution, 6th Amend.: *“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial ... and to have the Assistance of Counsel for his defense.”*
 - Washington Constitution, art. I, § 22: *“[i]n criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel.”*
 - Statutory
 - RCW 10.101 (Criminal), RCW 13.32A (Child Dependency/Termination, At-Risk Youth), RCW 11.130 (Guardianship), RCW 7.105 (Petitioner in a No Contact Order)
 - Court Rule
 - CrR and CrRLJ 3.1
 - JuCr 9.2(c)(1)
 - Caselaw
 - Expert Services (State v. Punsalan), Interpreters (State v. Gonzalez-Morales), Psychiatric Evaluations (Ake v. Oklahoma),

OPD's Budget Request

What does this request pay for?

- \$5,700,000.00 (\$4.7m GF & \$1m from CD/MH)
- Impacted Programs
 - Conflict Attorney Representation
 - Expert Services (GF & 124)
 - Aggravated Murder
 - COLA reconciliation for SCPDA employees

Conflict Panel Background

- Constitutionally Required
- Covers costs for legal representation in criminal and civil matters for which the Snohomish County Public Defender Association is ethically conflicted from accepting or a Court has ordered OPD to appoint another attorney/firm.
- Conflict Panel Attorneys are small firms or local lawyers with an expertise in criminal defense who have agreed to take public defense cases at a rate reduced from what they charge private clients.

Conflict Panel Costs

- \$2,400,000 for 2026
- 2025 OPD:
 - Budgeted: \$2,030,484.00
 - YTD: \$2,216,881.42
 - Projected: \$3,859,923.22
- 25/26 Budget \$4,060,968.00
 - Projected: \$6,460,968.00

Conflict Panel Costs Drivers

- Increased number of cases sent to the conflict panel
- Increased number of court orders ordering OPD to appoint second, third, or fourth attorney to a case
- Increased number of hours spent per case because of:
 - Changes in Prosecutor's Office Charging Standards (Oct 2024)
 - Increased complexity of cases
 - Increased need to rely on experts that increases length of case
- 2023 change in compensation model to comply with the 2021 Office of Public Defense Audit and 2025 WSBA Indigent Defense Standards.
- Conflict panel attorneys have not seen an increased compensation rate consistent with County employee's COLA, and Snohomish County is not paying less per hour than three adjacent counties and the federal defenders, suggesting a cost increase may be necessary in the future to continue to provide legal representation.

Expert Services Background

- Constitutionally Required to provide “effective assistance of counsel”
- Covers costs for legal witnesses in the case who are required in order to provide a constitutionally mandated effective assistance at trial or during the case.
 - This can include:
 - Investigators
 - Interprets/Translators
 - Transcribers/Court Reporters/Depositions
 - Forensic Experts (ballistics, drug testing, crime scene/accident reconstruction, etc.)
 - Medical and Mental Health Experts to
 - Establish legal defense or exercise a right
 - Provide mitigation or evaluation
 - Disprove state’s expert’s evidence
- OPD manages costs.
 - OPD denies 10-20% of requests.
 - OPD does not track reduced rate requests
- DOES NOT INCLUDE EHM

Expert Services Costs

- \$2,500,000.00 for 2026
- 2025 OPD:
 - Budgeted: \$1,046,150.00
 - YTD: \$1,044,629.89
 - Projected: \$1,578,004.10
- 25/26 Budget \$1,046,150.00
 - Projected: \$ 2,578,004.10 (incl. F124)

Expert Services Costs Drivers

- Inflation
 - OPD has a published expert services rates that have not been updated in years
 - Expert witnesses charge more per hour than in 2020
- Increased number of cases requiring experts
 - Changed legal mandates
 - Increase in complex cases
 - Increase in case complexity
- Increase in cases involving individuals experience medical and mental health issues legally relevant to the verdict or detention

Aggravated Murder Background

- Constitutionally Required
- Covers legal representation costs for defendants charged with aggravated murder. Often requires two lawyers on both sides of the case to share the work.
- Cases are serious and as a result, rarely resolve in negotiated pleas. This increases the length of time the case is open and often requires additional expert witnesses to assist in the defense of the case.
- Impossible to predict the number of cases annually or their complexity.

Aggravated Murder Costs

- \$800,000 for 2026
- 2025 OPD:
 - Budgeted: \$389,083
 - YTD: \$487,546.87
 - Projected: \$835,794.63
- 25/26 Budget \$389,083
 - Projected: \$800,000.00
 - If one murder case goes to trial in 2026, this cost will increase

Aggravated Murder Cost Drivers

- Increased number of deaths involving multiple defendants
- Increasing complexity of cases involving hundreds of state and defense witnesses, many of whom are not local and some of whom are experts in their field locally and nationally.
- Increased time to resolution when cases are complicated and complex. The longer the litigation lasts, the longer we pay defense counsel.
- Murder cases infrequently resolve in a negotiated plea. These cases involve trials which are costly.

What does this request NOT pay for?

- Any increases to staffing at the Snohomish County Public Defender Association.
 - Covers COLA to SCPDA staff
- Any costs associated with changes to public defense caseloads based on the Supreme Court's June 9, 2025 Order.
 - SCPDA is currently staffed to meet the Court's order in 2026.
 - We can expect to see costs from caseloads in the next biennium.
 - Unfunded mandate and State contributes minimally

Why now?

- Historically, OPD NOT funded to cover expected costs
- Historically, OPD funded for a baseline amount and then adjusted to reflect actual costs at year end reconciliation
 - OPD's costs have historically been variable due to cases and filings, and reconciliation was more appropriate than initial overbudgeting
 - OPD has exceeded budget every year in the last 5 years and reconciliation required
 - In the last five years, OPD has an annual average year end reconciliation of \$1,010,000
- Given the biennial budget, potential impact to services, and staff resources, OPD opted to raise concerns now instead of the end of the biennium.